



CrI.A.No.961 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.A.No.961 of 2025

R.Nagaraj

... Appellant

Vs

M.Palanisamy

... Respondent

Prayer: Criminal Appeal filed under Section 419(4) r/w 423 of B.N.S.S.,
pleaded to set aside the order dated 31.12.2024 in C.C.No.129 of 2023 on
the file of the learned Judicial Magistrate-I, Mettur and thereby allow the
above Criminal Appeal.

For Appellant : M/s.C.N.Prarthana

JUDGMENT

This Criminal Appeal has been preferred as against the judgment
dated 31.12.2024 passed by the learned Judicial Magistrate No.I, Mettur
in C.C.No.129 of 2023, thereby acquitting the respondent for the offence
punishable u/s 138 of Negotiable Instruments Act (in short 'the NI Act').

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2. The appellant has lodged a complaint against the respondent for the offence punishable u/s 138 of the NI Act alleging that the respondent and his family members are family friends of the appellant. Out of the said friendship, on 25.12.2022, the respondent had borrowed hand loan for a sum of Rs.5,00,000/- from the appellant at his house for the urgent family and business expenses of the respondent and agreed to repay the same within two months. But he did not pay the same within two months to the appellant as agreed by him. In spite of several demands made by the appellant, the respondent did not repay the same. Finally, on 25.02.2023, the appellant demanded the said hand loan amount from the respondent and he issued a post dated cheque bearing bearing No.965105, dated 03.03.2023 drawn on Indian Bank, Mettur Dam Branch for a sum of Rs.5,00,000/-. As per instruction of the respondent, the appellant presented the cheque for collection on 03.03.2023 and the same was returned dishonoured with a memo stating that “Payment stopped by drawer”. After causing the statutory notice, the appellant filed a complaint u/s 138 of the NI Act.



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3. On the side of the appellant, P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P6 were marked. On the side of the respondent, D.W.1 was examined and Ex.D1 and Ex.D2 were marked. On perusal of the oral and documentary evidence, the Trial Court found the respondent not guilty and acquitted him of the charges u/s 138 of the NI Act. Aggrieved by the same, the present appeal is filed.

4. The learned counsel for the appellant would submit that the respondent did not deny the issuance of cheque and the signature found in the cheque. Further, he submitted that without any reason, the respondent stopped the payment. Therefore, the appellant had discharged his initial burden as contemplated u/s 138 of NI Act. Though the respondent failed to rebut the presumption, the Trial Court mechanically acquitted the respondent, which is *per se* unsustainable. Accordingly, he prays for allowing the appeal.

5. Heard the learned counsel appearing for the appellant and also perused the materials available on record.



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6. On a perusal of records, it was revealed that the cheque was returned for the reason that “Payment stopped by drawer”. The specific case of the respondent is that the appellant is conducting chit in his home and the respondent issued a cheque for security purpose while drawing price chit amount, however it was mis-used by the appellant. During the cross-examination, the appellant had categorically admitted that there was a complaint against him for non-payment of chit amount. That apart, on the date of presentation of cheque, the cheque amount was very much available in the respondent's bank. In order to prove the same, the respondent marked the statement of bank account as Ex.D.1. Further, the respondent examined the bank manager as D.W.1, who deposed that the stop payment requisition was given on 18.09.2018 and the requisition letter for stop payment would not be produced as the same was destroyed as per rules in force. The alleged cheque was issued on 25.02.2023 and the stop payment requisition was given on 18.09.2018. Therefore, it cannot be construed that the respondent had given stop payment requisition in the year 2018 intentionally to cheat a person after five



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years i.e., 2023. Therefore, it is proved that the respondent had not issued the cheque to the appellant on 25.02.2023 as alleged by the appellant. Hence, the respondent had categorically rebutted the presumption arise u/s 118 and 139 of NI Act. However, the appellant failed to prove that the cheque was issued for legally enforceable debt. Therefore, no offence u/s 138 of NI Act is made out against the respondent. Hence, the Trial Court rightly acquitted the respondent for the offence punishable u/s 138 of NI Act.

7. In view of the above, this Court finds no infirmity or illegality in the Judgment dated 31.12.2024 made in C.C.No.129 of 2023 on the file of the learned Judicial Magistrate No.I, Mettur. Accordingly, this Criminal Appeal stands dismissed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

The Judicial Magistrate No.I, Mettur.

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